

33 CFR Part 117

[CGD05-94-116]

RIN 2115-AE47

**Drawbridge Operation Regulations;
Wicomico River, Salisbury, MD**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the Main Street and the US 50 drawbridges across the North Prong of the Wicomico River, mile 22.4, in Salisbury, Maryland. This rule will extend the current rush hour restrictions by one hour in the morning and one hour in the afternoon, and require a three hour advance notice for commercial vessels needing a bridge opening during the hours of closure due to emergency situations. The existing 12 noon to 1 p.m. closure period will remain in effect. These changes to the drawbridge regulations are intended to reduce motor vehicle delays and congestion, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on July 21, 1995.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Section, and LCDR Christopher A. Abel, Project Counsel, Fifth Coast Guard District Legal Office.

Regulatory History

On February 10, 1995, the Coast Guard published a notice of proposed rulemaking with request for comments entitled Wicomico River, Salisbury, Maryland, in the **Federal Register** (60 FR 7930). The comment period ended May 11, 1995. The Coast Guard received no comments on the proposed rule. The Commander, Fifth Coast Guard District, also published the proposed rule as a public notice on March 20, 1995, with the comment period ending May 11, 1995, and no comments were received as a result of this notice. A public hearing was not requested and one was not held.

Background and Purpose

The State Highway Administration, Maryland Department of Transportation (MDOT), has requested that openings of the Main Street and US 50 drawbridges

across the North Prong of the Wicomico River, mile 22.4, at Salisbury, Maryland, be further restricted during the morning and evening rush hours. This will help to reduce highway traffic congestion problems and relieve public safety and welfare concerns associated with frequent bridge openings caused by commercial boat traffic. Currently, these drawbridges open on signal except from 8 a.m. to 9 a.m., 12 noon to 1 p.m., and 4:30 p.m. to 5:30 p.m., during which time both remain closed to navigation. This rule changes the hours of bridge closures to 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. The existing 12 noon to 1 p.m. closure will remain the same. This rule also includes the provision that commercial vessels needing passage through the bridge during the hours of restriction will be required to give a three hour advance notice for a bridge opening. This advance notice requirement only applies to tugs and barges unable to reach the bridges except during the hours of closure due to severe inclement weather or other emergency or unforeseen circumstances.

MDOT conducted an analysis of highway traffic and marine traffic data, along with a waterway user and property owner survey that was conducted in 1993. It revealed that the excessive drawbridge openings during the morning and evening hours were caused by commercial vessels from two waterfront companies located upstream of the drawbridges. Based on this information and the allowance of the three hour advance notice provision, the Coast Guard believes these regulations should not unduly restrict commercial vessel passage through the bridge since they can plan their vessel transits around the hours of restriction as well as take advantage of the three hour advance notice for bridge openings during the hours of restriction during inclement weather.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and it has been determined that this rule will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e. (32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist have been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulations

In consideration of the foregoing, the Coast Guard is amending part 117 of title 33, Code of Federal Regulations, as follows:

**PART 117—DRAWBRIDGE
OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); § 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.579 is revised to read as follows:

§ 117.579 Wicomico River (North Prong).

The draws of the Main Street and US 50 bridges, mile 22.4, Salisbury, Maryland shall open on signal, except from 7 a.m. to 9 a.m., from 12 noon to 1 p.m., and from 4 p.m. to 6 p.m., the draw need not be opened for the passage of vessels, except for tugs with tows, if at least three hours of advance notice is given, and the reason for passage through the bridges during a closure period is due to delay caused by inclement weather or other emergency or unforeseen circumstances.

Dated: May 22, 1995.

W.J. Ecker,

Rear Admiral, Coast Guard, Commander, Fifth Coast Guard District.

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33 CFR Part 117

[CGD13-93-031]

RIN 2115-AE47

Drawbridge Operation Regulation; Columbia River, OR and WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Oregon State Department of Transportation (ODOT), the Coast Guard is amending the regulations governing the operation of the twin Interstate 5 drawbridges across the Columbia River, mile 106.5, between Portland, Oregon, and Vancouver, Washington. This rule extends the length of the morning and afternoon time periods during which the draws need not open for the passage of vessels and provides for reasonably unobstructed passage of commercial vessels during periods of high water. This rule will relieve vehicular traffic congestion caused by bridge openings immediately before and after the existing morning and evening closed periods while continuing to provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on July 21, 1995.

ADDRESSES: Unless otherwise noted, documents referred to in this preamble are available for inspection and copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220-7272).

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principle persons involved in drafting this document are John E. Mikesell, Project Manager, and Lieutenant Commander John C. Odell, Project Counsel.

Regulatory History

On November 26, 1993, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulation; Columbia River, OR and WA, in the **Federal Register** (58 FR 62302). Comments received from affected commercial navigation interests resulted in the proposed rule being redrafted to address their concerns.

On October 4, 1994, the Coast Guard published a supplemental notice of proposed rulemaking entitled Drawbridge Operation Regulation; Columbia River, OR and WA, in the **Federal Register** (59 FR 50531). The Coast Guard received no comments on the supplemental notice of proposed rulemaking. However, subsequent to its publication, the Coast Guard recognized the need for clarification concerning the rule's applicability to commercial and recreational vessels. This resulted in the rule being redrafted to provide necessary clarification.

On March 14, 1995, the Coast Guard published a second supplemental notice of proposed rulemaking entitled Drawbridge Operation Regulation; Columbia River, OR and WA, in the **Federal Register** (60 FR 13653). The Coast Guard received no objections to this second supplemental notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

This rule amends the drawbridge operation regulations for the twin Interstate 5 drawbridges across the Columbia River, mile 106.5, between Portland, Oregon, and Vancouver, Washington. The rule extends the morning and afternoon time periods during which the draws of bridges need not open for the passage of vessels while delineating clear exceptions based on river flow conditions and the type of vessel traffic involved.

Under the existing regulations, the twin Interstate 5 vertical lift bridges across the Columbia River between Portland, Oregon and Vancouver, Washington, are currently required to open on signal, except that from 6:30 a.m. to 8 a.m. and from 3 p.m. to 6 p.m., Monday through Friday (except Federal holidays), the draws need not open. These closed periods are necessary to accommodate peak morning and

afternoon vehicular commute traffic across the bridges. Both bridges also have alternate mid-level fixed spans which provide greater vertical clearance than do the drawspans in the closed position. The alternate fixed spans are routinely used by tug and barge traffic except at higher water surface elevations. Because the number of vehicles crossing the bridge has increased dramatically, particularly during commute times, any opening in close proximity, before or after, results in unacceptable vehicular traffic delays.

Under the amended regulations, when the river gauge at the bridge indicates 6.0 feet, or more, as determined by the drawtender on duty, the draws need not open for the passage of commercial vessels from 6:30 a.m. to 8 a.m. and from 3:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays, and for all other vessels the draws need not open from 5:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays. When the river gauge at the bridge indicates 5.9 feet, or less, as determined by the drawtender on duty, the draws need not open for the passage of any vessels from 5:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m. Monday through Friday, except Federal holidays. This change will better accommodate the increased level of vehicular traffic and still provide for the reasonable needs of commercial navigation during periods of high water.

Discussion of Comments and Changes

The Coast Guard received two letters in response to the second supplemental notice of proposed rulemaking published on March 14, 1995 (60 FR 13653). One letter, from a federal resource agency who routinely responds to Coast Guard public notices, offered no comments in objection to the proposal. The other letter, from a regional planning organization, offered comments in support of the proposal.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Most waterway traffic under the bridge can be accommodated by the alternate fixed span channel. Also, with respect to commercial vessels the rule